IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24058 of 2004

Between:

Ch. Mallaiah, S/o. Ch. Ramaiah,
Poamukkunta, Rajapet Mandal, Nalgonda District.

..... PETITIONER

AND

1.. The District Collector, Panchayat Wing, Nalgonda District.
2.. The Mandal Parishad Development Officer, Rajapet, Nalgodna

District.
3.. The Sub Treasury Officer, Alair, Nalgonda District,
4.. B. Sudhakar Reddy, Upa Sarpanch,
Gram Panchayat Pamukunta, Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order or writ one in the nature of writ of mandamus, declaring the action of the 1st respondent in passing orders in Memo No. 1147/04-A1(pts), dt. 23.11.2004 as arbitrary, illegal, unjust, in violation of principles of natural justice and contrary to the A.P. Panchyat Raj Act, 1994 and consequently call for the records in the proceedings set aside the same in the interests of Justice and pass such other order or orders.

Counsel for the Petitioner:SMT.N.SHOBA

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

ORDER:

The petitioner claims to be elected Sarpanch of Pamukunta Gram Panchayat, Rajampet Mandal, Nalgonda district, filed the present writ petition questioning the proceedings dated 23-11-2004 devolving the cheque signing power to Upasarpanch.

The brief facts, which led to filing the present writ petition are that the second son of the petitioner was got separated and his wife has committed suicide on 8-10-2004 and a complaint was made against petitioner herein along with two others and the same was registered as Crime No.52 and 2004 and the petitioner was got arrested on
16-10-2004. **T**hat the petitioner has got bail on 10-11-2004 and released on 11-11-2004 and thereafter regularly conducting the meetings and attending to the affairs of the post of Sarpanch. While so, the impugned order dated 23-11-2004 was passed withdrawing the financial power and devolving the same to the Upasarpanch/4th respondent herein. The relevant portion of order dt 23-11-2004 reads as under:

> *"Therefore Sri B.Sudharshan Reddy, Upa Sarpanch and inchrage Sarpanch, Gram Panchayat, Pamukuntla shall exercise the powers and perform the functions of the Sarpanch, Gram Panchayat, Pamukunta until further orders.*
>
> *In view of the above, Sri B.Sudharshan Reddy, Upa Sarpanch Gram Panchayt, Pamukunta is hereby authrised to draw the Gram Panchayat funds himself and SGRY with 2nd signatory of the elected ward member and the 11th Finance Commission funds with the Panchayat Secretary, Gram Panchayat, Pamukunta with the counter signature of the Mandal Parishad Development Officer, Rajampet on*

all the cheques presented by the Upa Sarpanch, Gram Panchayat, Pamukunta until further orders."

Learned counsel for petitioner submitted that petitioner was implicated in a criminal case and was arrested on 16-10-2004 and obtained a bail on 10-11-2004 and released on 11-11-2004 and thereupon he is very much available in the village and attending to the affairs of the Gram Panchayat as Sarpanch. It is also stated that on 17-11-2004 resolutions were passed for construction of tanks for storing drinking water for cattle, for repairing of water supply motor near Vasiatha, for granting finance for construction of a drain for Padmashaliwada. It is thus contended that since the petitioner is very much present in the village and attending to the affairs of the Gram Panchayat, there is no need to pass the impugned order devolving the powers to Upa-sarpanch.

Learned Government Pleader for Panchayat Raj and Rural Development submitted that the petitioner can very well raise all these contentions before the District Collector/first respondent and seek appropriate relief.

Heard the learned counsel for petitioner and learned Government Pleader for Panchayat Raj and Rural Development. Both counsel agreed for disposal of the writ petition at the admission stage.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, permitting the petitioner to submit a representation to the first respondent, within one week from the date of receipt of copy of this order and on filing such a representation, the first respondent is directed to consider the same and pass a speaking order, in accordance with law, expeditiously, preferably within a period of two weeks thereon.

Subject to above observations, the writ petition is disposed of. No costs.

N.V.RAMANA,J

23-12-2004

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.. The District Collector, Panchayat Wing, Nalgonda District.
2.. The Mandal Parishad Development Officer, Rajapet, Nalgodna

District.
3.. The Sub Treasury Officer, Alair, Nalgonda District,
4.. The Upa Sarpanch,
Gram Panchayat Pamukunta, Nalgonda District.

5.2CCs to G.P. for Panchayat Raj and Rural Development, High Court of

A.P. Buildings, Hyderabad (OUT)

6.2CD copies

7.2CCs to